

**PLANNING BOARD
RESOLUTION NO. 2019-35**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD RECOMMENDING AN ORDINANCE TO THE CITY COMMISSION AMENDING CHAPTER 122 OF THE LAND DEVELOPMENT REGULATIONS, ENTITLED “ZONING”, ARTICLE IV, ENTITLED “DISTRICTS”, DIVISION 6 ENTITLED “HISTORIC PRESERVATION DISTRICTS”, SUBDIVISION III, ENTITLED “HRCC-2 KEY WEST BIGHT DISTRICT”, WITH AN ENCOURAGEMENT TO STAFF TO PURSUE AN INCREASE IN MAXIMUM ALLOWABLE DENSITY ABOVE TWENTY UNITS PER ACRE; PURSUANT TO CHAPTER 90, ARTICLE VI, DIVISION 2; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the provisions of Chapters 163, 166, and 380 of the Florida State Statutes, the City of Key West, Florida (the “City”) proposes to amend Chapter 122 of the Land Development Regulations (the “LDRs”); and

WHEREAS, the base density of the Historic Residential Commercial Core – 2 Key West Bight District (HRCC-2) zoning district is eight dwelling units per acre (8 du/acre); and

WHEREAS, all increases in density above the base density of eight units per acre shall be only by transfer of development rights; and

WHEREAS, a requirement of a transfer of development rights in order to develop more than 8 du/acre may result in a delay or an obstruction of development of affordable housing in the HRCC-2 zoning district; and

WHEREAS, this proposed amendment to the Land Development Regulations was presented to the Planning Board with a recommendation of approval at its regularly scheduled meeting on May 16, 2019; and

WHEREAS, the Planning Board finds that it is in the public's interest to amend the City's Land Development Regulations, by removing the requirement of a transfer of development rights in order to develop more than 8 du/acre in the HRCC-2 zoning district; and

NOW, THEREFORE BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That the proposed amendment to Chapter 122 of the Land Development Regulations is recommended for approval; the changes are as follows:*

Subdivision III. - HRCC-2 Key West Bight District

Sec. 122-716. - Intent.

- (a) Consistent with the comprehensive plan future land use map, the HRCC-2 Key West Bight district includes the Key West Bight area. Development within this district shall reinforce the following:
 - (1) Preservation of public waterfront access as well as waterfront views;
 - (2) Improved pedestrian linkages with adjacent and nearby activity centers;
 - (3) Protection and enhancement of opportunities for water-dependent and water-related land use activities, while preventing undue concentrations of population within the coastal high hazard area;
 - (4) Accommodation of public improvements necessary to achieve redevelopment plan objectives;
 - (5) Implementation of urban design schemes which attract pedestrians, increase waterfront exposure, reinforce the ambiance of the waterfront, and regulate against structures which wall off or otherwise inhibit access to waterfront views, strategic open spaces, or pedestrian linkages; and
 - (6) Consistency with the redevelopment plan for the Key West Bight and the Caroline Street Redevelopment Area.
- (b) This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of development rights.

(Ord. No. 97-10, § 1(2-5.5.3(2)(A)), 7-3-1997)

Sec. 122-717. - Uses permitted.

In the HRCC-2 Key West Bight district, only water-dependent uses shall be located within the first 30 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water-related uses shall be located between the 30-foot setback and the 100-foot setback from the mean high water or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-2 district. Permitted uses include the following:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in section 122-1246.
- (4) Places of worship.
- (5) Business and professional offices.
- (6) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter.
- (7) Medical services.
- (8) Parking lots and facilities.
- (9) Restaurants, excluding drive-through.
- (10) Veterinary medical services without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.3(2)(B)), 7-3-1997)

Sec. 122-718. - Conditional uses.

Conditional uses in the HRCC-2 Key West Bight district are as follows:

- (1) Group homes with seven to 14 residents as provided in section 122-1246.
- (2) Community centers, clubs, and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges.
- (10) Boat sales and service.

- (11) Commercial retail low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter.
- (12) Commercial retail high intensity as provided in division 11 of article V of this chapter.
- (13) Funeral homes.
- (14) Light industrial.
- (15) Marinas.
- (16) Small recreational power-driven equipment rentals.

(Ord. No. 97-10, § 1(2-5.5.3(2)(C)), 7-3-1997)

Sec. 122-719. - Prohibited uses.

In the HRCC-2 Key West Bight district, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.3(2)(D)), 7-3-1997)

Sec. 122-720. - Dimensional requirements.

The dimensional requirements in the HRCC-2 Key West Bight district are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Density of areas designated HRCC-2 on the future land use map shall carry a base density of eight units per gross acre. These HRCC-2 designated areas may develop to a density of 12 units per acre ~~under the transfer of development rights program~~ assuming that the owner/developer certifies by ~~affidavit~~ a deed restriction as described in this subsection that a minimum of 40 percent of the residential units shall be provided and maintained as affordable housing as described. Areas designated "HRCC-2" on the ~~future land use~~ official zoning map may be increased to 20 units per acre if all units within the development are ~~certified by affidavit of deed restricted by~~ the owner/developer as affordable residential units. ~~All increases in density above the base density of eight units per acre shall be only by transfer of development rights. An affordable housing affidavit~~ A deed restriction shall guarantee that the affordable units shall be inhabited in perpetuity by residents whose income levels are consistent with income thresholds to be established in the city's affordable housing in division 10 of article V of this chapter. All developments in the HRCC-2 district involving ~~transfer of development rights and~~ affordable housing shall be approved pursuant to a development agreement as provided in chapters 94, 102 and 106; articles I and III through IX of chapter 108; and chapters 110 and 114. This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of density.
- (2) Maximum floor area ratio: 0.5.

- (3) Maximum height: 35 feet, except within the 100-foot setback from mean high water, the following restrictions apply:
 - a. The minimum open space ratio shall be 0.5.
 - b. The height of buildings shall be one habitable floor/story above the base flood elevation.
- (4) Maximum lot coverage: Within the 100-foot setback from mean high water, the minimum open space ratio shall be 0.50, and the maximum height of buildings shall be restricted to one habitable floor/story above base flood elevations. The open space restriction shall not apply to a ferry terminal if the Chevron property within the Key West Bight area is selected for the city ferry terminal. The redevelopment plan shall provide design criteria which shall protect waterfront views, mandate pedestrian access improvements, and ensure preservation of open space. Landward of the 100-foot setback area the following restrictions shall apply:
 - a. Maximum building coverage: 50 percent.
 - b. Maximum impervious surface ratio: 60 percent, excepting the first 100 feet from mean high water as provided in section 122-716.
- (5) Minimum lot size: 5,000 square feet.
 - a. Minimum lot width: 50 feet.
 - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
 - a. Front: 10 feet.
 - b. Side: 7.5 feet.
 - c. Rear: 15 feet but ten when abutting an alley.
 - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.3(2)(E)), 7-3-1997; Ord. No. 10-04, § 7, 1-5-2010)

Secs. 122-721—122-745. - Reserved.

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.)

Section 3. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the city clerk.

Section 4. This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department

of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty-five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty-five (45) day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regular meeting held this 16th day of May 2019.

Authenticated by the Chair of the Planning Board and the Planning Director.

Sam Holland, Planning Board Chair

Date

Attest:

Patrick Wright, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date